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** This Act reflects only the amendments made until June 30, 2015*

EMPLOYEE RETIREMENT BENEFIT SECURITY ACT

Act No. 7379, Jan. 27, 2005

Amended by Act No. 7636, Jul. 29, 2005
Act No. 8372, Apr. 11, 2007
Act No. 8635, Aug. 3, 2007
Act No. 8863, Feb. 29, 2008
Act No. 9039, Mar. 28, 2008
Act No. 10303, May 17, 2010
Act No. 10339, Jun. 4, 2010
Act No. 10366, Jun. 10, 2010
Wholly Amended by Act No. 10967, Jul. 25, 2011

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Act is to contribute to securing workers' stable livelihoods for workers in their old age through stipulation of matters needed to establish and operate a retirement benefit scheme for workers.

Article 2 (Definition)

The meanings of the terms used in this Act are as follows :

1. "Worker" refers to a worker under Article 2 (1) 1 of the Labor Standards Act;
2. "Employer" refers to an employer under Article 2 (1) 2 of the Labor Standards Act;
3. "Wages" refers to wages under Article 2 (1) 5 of the Labor Standards Act;
4. "Average wages" refers to average wages under Article 2 (1) 6 of the Labor Standards Act;
5. "Benefits" refers to an annuity or lump sum paid to workers under a retirement benefit scheme or an individual retirement pension plan under Article 25;
6. "Retirement benefit scheme" refers to a defined benefit retirement pension plan, a defined contribution retirement pension plan or a retirement pay system under Article 8;
7. "Retirement pension plan" refers to a defined benefit

- retirement pension plan, a defined contribution retirement pension plan or an individual retirement pension plan;
8. "Defined benefit retirement pension plan" refers to a retirement pension plan under which the level of benefits a worker will receive is predetermined;
 9. "Defined contribution retirement pension plan" refers to a retirement pension plan under which the level of contributions an employer should make to pay benefits is predetermined;
 10. "Individual retirement pension plan" refers to a retirement pension plan set up to deposit and manage a lump-sum amount paid by a pension holder according to his/her choice or contributions paid by an employer or a pension holder and under which the level of benefits or the level of contributions is not defined;
 11. "Pension holder" refers to a worker who has joined a retirement pension plan;
 12. "Reserve" refers to money accumulated with contributions paid by an employer or a pension holder in order to pay benefits when there occurs any reason for the payment, such as retirement of the pension holder; and
 13. "Retirement pension trustee" refers to a person registered to carry out operational management services and asset management services for retirement pension plans pursuant to Article 26.

Article 3 (Scope of Application)

This Act shall apply to all businesses or workplaces (hereinafter referred to as "businesses") employing workers: Provided, That this shall not apply to businesses employing only relatives living together with their employer and to employment activities within households.

CHAPTER II

Establishment of a Retirement Benefit Scheme

Article 4 (Establishment of a Retirement Benefit Scheme)

(1) An employer shall set up at least one retirement benefit scheme in order to pay benefits to workers after they retire: Provided, That this shall not apply to workers whose consecutive service period is less than one year and workers

whose average weekly working hours over a four-week period is less than 15 hours.

(2) If a retirement benefit scheme is set up pursuant to paragraph (1), no differentiation shall be made within the same business with regard to the application, etc., of the methods of calculating benefits and contributions.

(3) If an employer intends to set up a retirement benefit scheme or change an established retirement benefit scheme into a different one, he/she shall, if there is a trade union joined by a majority of workers, receive the consent of the trade union, and if there is no such trade union, receive the consent of the majority of workers (hereinafter referred to as "workers' representative").

(4) If an employer intends to change the details of a retirement benefit scheme established or changed pursuant to paragraph (3), he/she shall hear opinions from the workers' representative: Provided, That if the employer intends to make a change unfavorable to workers, he/she shall receive the consent of the workers' representative.

Article 5 (Retirement Benefit Scheme for Newly-Established Businesses)

The employer of a business newly established (excluding mergers or splits) after the enforcement date of the Employee Retirement Benefit Security Act as wholly amended by Act No. 10967 shall set up a defined benefit retirement pension plan or defined contribution retirement pension plan after hearing opinions from the workers' representative within one year after the establishment of the business.

Article 6 (Establishment of Two or More Retirement Pension Plans for Pension Holders)

(1) If an employer sets up both a defined benefit retirement pension plan and a defined contribution retirement pension plan for pension holders, the level of benefits under the defined benefit retirement pension plan and the level of contributions under the defined contribution retirement pension plan shall be as follows, notwithstanding Article 15 and Article 20 (1):

1. Benefits under the defined benefit retirement pension plan : an amount produced by multiplying the level of benefits under Article 15 by the ratio prescribed by the defined benefit retirement pension rules;
2. Contributions under the defined contribution retirement pension plan : an amount produced by multiplying the

level of contributions under Article 20 (1) by the ratio prescribed by the defined contribution retirement pension rules.

(2) The employer shall establish the retirement pension rules in a way to make the sum of each ratio under paragraph (1) 1 and 2 equal to or larger than one, and set up the retirement pension plans accordingly.

Article 7 (Protection of Right to Receive Benefits)

(1) The right to receive benefits under a retirement pension plan shall neither be transferred to others nor offered as collateral.

(2) Notwithstanding paragraph (1), if the reasons and requirements prescribed by Presidential Decree, such as housing purchase, are met, the right to receive benefits under a retirement pension plan may be offered as collateral to the extent prescribed by Presidential Decree. In such cases, a retirement pension trustee registered pursuant to Article 26 shall cooperate to ensure that loans can be borrowed against provided benefits.

Article 8 (Establishment, etc., of retirement pay System)

(1) An employer who intends to set up a retirement pay system shall set up the system so that it is possible to pay a retiring worker 30 days or more of the average wages for each year of his/her consecutive service as retirement pay.

(2) Notwithstanding paragraph (1), an employer may, if a worker requests the payment for any reason prescribed by Presidential Decree, such as housing purchase, pay the worker the amount of retirement pay corresponding to his/her consecutive service period earlier than his/her retirement. In such cases, the consecutive service period to be used for the calculation of the amount of retirement pay accumulated thereafter shall be reckoned anew from the time when the balances are settled.

Article 9 (Payment of retirement pay)

If a worker retires, the employer shall pay retirement pay to the worker within 14 days from the date on which there occurs a reason for the payment: Provided, That in special circumstances, the date of payment may be put off upon agreement between the parties concerned.

Article 10 (Extinctive Prescription of Retirement Pay)

If the right to receive retirement pay under this Act has not been exercised for three years, it shall be extinguished by extinctive prescription.

Article 11 (Non-establishment of a Retirement Benefit Scheme)

Notwithstanding the main sentence of Article 4 (1) and Article 5, if an employer fails to establish a retirement benefit scheme or an individual retirement pension plan under Article 25 (1), he/she shall be deemed to have established a retirement pay system under Article 8 (1).

Article 12 (Preferential Payment of Retirement Benefits, etc.)

(1) retirement pay an employer is obligated to pay, benefits under a defined benefit retirement pension plan under Article 15, unpaid contributions and interest on unpaid contributions out of contributions under a defined contribution retirement pension plan under Article 20 (3), unpaid contributions and interest on unpaid contributions out of contributions under an individual retirement pension plan under Article 25 (2) 4 (hereinafter referred to as "retirement benefits, etc.") shall be paid in preference to taxes, public utility charges and other claims, except for claims secured by pledges or mortgages on the whole property of an employer: Provided, That this shall not apply to taxes and public utility charges taking precedence over pledges or mortgages.

(2) Notwithstanding paragraph (1), retirement benefits, etc., for the final three years of service shall be paid in preference to claims secured by pledges or mortgages on the whole property of an employer, taxes, public utility charges and other claims.

(3) Among retirement benefits, etc., retirement pay and benefits under a defined benefit retirement pension plan under Article 15 shall be an amount equal to 30 days of average wages for each year of consecutive service.

(4) Among retirement benefits, etc., contributions under a defined contribution retirement pension plan under Article 20 (1) and contributions under an individual retirement pension plan under Article 25 (2) 2 shall be an amount equal to one twelfth of the total annual wages of a pension holder.

CHAPTER III

Defined Benefit Retirement Pension Plan

Article 13 (Establishment of a Defined Benefit Retirement Pension Plan)

An employer who intends to set up a defined benefit retirement pension plan shall prepare defined benefit retirement pension rules containing the following matters after obtaining the consent of, or hearing opinions from, the workers' representative, pursuant to Article 4 (3) or Article 5, and report them to the Minister of Employment and Labor:

1. Matters concerning the selection of a retirement pension trustee;
2. Matters concerning pension holders;
3. Matters concerning a period of contribution;
4. Matters concerning the level of benefits;
5. Matters concerning the securing of the ability to pay benefits;
6. Matters concerning types of benefits and eligibility requirements for recipients, etc.;
7. Matters concerning the conclusion and termination of a contract to carry out operational management services under Article 28 and asset management services under Article 29 and the transfer of the contract following its termination;
8. Matters concerning notification of the current state of management;
9. Matters concerning the occurrence of a reason for the payment of benefits, such as retirement of a pension holder, and procedures for payment of benefits;
10. Matters concerning reasons and procedures, etc., for the abolition and suspension of a retirement pension plan;
11. Other matters prescribed by Presidential Decree to operate a defined benefit retirement pension plan.

Article 14 (Contribution Period)

(1) The period of contribution under subparagraph 3 of Article 13 shall be the period of work in the business concerned after the establishment of the retirement pension plan.

(2) The period of work before the establishment of the retirement pension plan concerned may be included in the

period of contribution. In such cases, the period of work for which retirement pay has already been paid pursuant to Article 8 (2) shall be excluded.

Article 15 (Level of Benefits)

The level of benefits under subparagraph 4 of Article 13 shall be set in a way that ensures that the amount of lump-sum benefits calculated based on the retirement date of a pension holder is equal to or higher than 30 days of the average wages for each year of his/her consecutive service.

Article 16 (Securing of Ability to Pay Benefits, etc.)

(1) An employer who has set up a defined benefit retirement pension plan shall accumulate as reserves the amount (hereinafter referred to as "minimum reserves") calculated by multiplying whichever is higher between the following amounts at the end of every business year (hereinafter referred to as "standard liability reserves") by the ratio prescribed by Presidential Decree and not less than 60/100, in order to secure his/her ability to pay benefits: Provided, That if the period of work in the relevant business before the establishment of the retirement pension plan is included in the period of contribution pursuant to Article 14 (2), the ratio prescribed by Presidential Decree shall be followed:

1. The amount calculated in accordance with the method prescribed by Ordinance of the Ministry of Employment and Labor and obtained by subtracting the present value of estimated revenues from contributions to be paid over the future period of work from the present value of estimated expenses required to pay the amount of benefits corresponding to the contribution period until the time when a pension holder is expected to retire, which is calculated as of the last day of every business year;
2. The estimated amount required to pay the amount of benefits corresponding to the contribution period until the last day of the relevant business year of a person who is or was a pension holder, and calculated in accordance with the method prescribed by Ordinance of the Ministry of Employment and Labor.

(2) A retirement pension trustee that carries out operational management services for a defined benefit retirement pension plan shall check if the amount of reserves calculated as

prescribed by Ordinance of the Ministry of Employment and Labor is above the minimum reserves, and notify the employer of the results thereof as prescribed by Presidential Decree within six months after the end of every business year: Provided, That if the amount is below the minimum reserves, the workers' representative as well shall be notified of the results.

(3) If as a result of checking pursuant to paragraph (2), the amount of reserves has been found to fall short of the level prescribed by Presidential Decree, the employer shall remove the shortfall in the reserves as prescribed by Presidential Decree.

(4) If as a result of checking pursuant to paragraph (2), the amount of reserves at the end of every business year has been found to exceed the amount of standard liability reserves, the employer may use the surplus to offset future contributions, and if the amount of reserves at the end of every business year exceeds 150/100 of the amount of standard liability reserves and the employer demands a return of the surplus, the retirement pension trustee may return the surplus to the employer.

Article 17 (Types of Benefits and Eligibility Requirements for Recipients, etc.)

(1) Benefits under a defined benefit retirement pension plan shall take the form of either an annuity or a lump-sum payment, with the eligibility requirements for recipients as follows:

1. Annuities shall be paid to persons aged 55 and above, whose contribution period is ten years or more. In such cases, the payment period shall be five years or more; and
2. Lump-sum benefits shall be paid to pension holders who fail to meet the eligibility requirements to receive annuities or who wish to receive lump-sum benefits.

(2) An employer shall have the retirement pension trustee pay a pension holder the full amount of benefits (the amount calculated in proportion to the ratio of the amount obtained under Article 16 (1) 2 to the amount of reserves in the cases prescribed by Presidential Decree, such as business bankruptcy) he/she is obligated to pay and within the limits of the reserves within fourteen days from the date on which there occurs a

reason for the payment of benefits under paragraph (1), such as retirement of the pension holder: Provided, That in special circumstances, such as when assets in which the reserves of a retirement pension plan are invested are not sold in a short period of time, the payment date may be extended under agreement among the employer, the pension holder and the retirement pension trustee.

(3) If the level of benefits paid by a retirement pension trustee pursuant to paragraph (2) falls short of the level of benefits under Article 15, the employer shall pay the shortfall to the relevant worker within fourteen days from the date on which there occurs a reason for the payment of benefits. In special circumstances, the payment date may be extended upon agreement between the parties concerned.

(4) A payment of benefits under paragraphs (2) and (3) shall be made by transferring benefits to the individual retirement pension plan account designated by the pension holder: Provided, That this shall not apply if there is any reason prescribed by Presidential Decree, such as when the pension holder retires after the age of 55 and receives benefits.

(5) If a pension holder fails to designate an individual retirement pension plan account pursuant to paragraph (4), the benefits shall be transferred to a specified account operated by the relevant retirement pension trustee. In such cases, the pension holder shall be deemed to have set up an individual retirement pension plan with the retirement pension trustee.

Article 18 (Notification of Current State of Management)

A retirement pension trustee shall notify pension holders of the amount of reserves and rate of return on reserve funds at least once every year as prescribed by Ordinance of the Ministry of Employment and Labor.

CHAPTER IV

Defined Contribution Retirement Pension Plan

Article 19 (Establishment of a Defined Contribution Retirement Pension Plan)

(1) An employer who intends to set up a defined contribution retirement pension plan shall prepare defined contribution retirement pension rules that address the following matters after obtaining the consent of, or hearing opinions from, the workers' representative, pursuant to Article 4 (3) or Article 5, and report them to the Minister of Employment and Labor:

1. Matters concerning the allocation of contributions;
2. Matters concerning the payment of contributions;
3. Matters concerning the management of reserves;
4. Matters concerning the methods of managing reserves, the provision of information, etc.;
5. Matters concerning early withdrawal;
6. Matters relating to subparagraphs 1 through 3 and 6 through 10 of Article 13;
7. Other matters prescribed by Presidential Decree for operation of a defined contribution retirement pension plan.

(2) Where the defined contribution retirement pension plan is set up according to paragraph (1), the following articles shall apply mutatis mutandis: Article 14 for the period of contribution; Article 17 (1), (4) and (5) for types of benefits, eligibility requirements for recipients, and payment procedures and methods; and Article 18 for notification of the current state of management. In such cases, "subparagraph 3 of Article 13" stated in Article 14 (1) and the "defined benefit retirement pension plan" stated in Article 17 (1) shall be read as "subparagraph 6 of Article 19" and the "defined contribution retirement pension plan" respectively.

Article 20 (Levels of Contributions to Be Borne and Payment, etc., of Contributions)

(1) An employer who has set up a defined contribution retirement pension plan shall pay in cash contributions amounting to one twelfth or more of the total annual wages of a pension holder into the account of the pension holder under the defined contribution retirement pension plan.

(2) A pension holder may pay additional contributions borne by him/herself, apart from the contributions borne by the employer pursuant to paragraph (1), into the account of the pension holder under the defined contribution retirement pension plan.

(3) An employer shall regularly pay contributions under paragraph (1) into the account of the pension holder under the defined contribution retirement pension plan at least once every year. In such cases, if the employer fails to pay contributions by the set date (which may be extended when the defined contribution retirement pension rules allow the payment date to be extended), he/she shall pay interest on delayed payment at an interest rate prescribed by Presidential Decree in consideration of the late payment interest rate applied by banks under the Banking Act, economic conditions, etc., and not exceeding an annual rate of 40/100 for the number of delayed days from the set date to the date on which contributions are actually paid.

(4) If an employer delays payment of contributions due to a natural disaster or any other reason prescribed by Presidential Decree, paragraph (3) shall not apply for as long as such reason continues to exist.

(5) If an employer fails to pay contributions for a pension holder covered by a defined contribution retirement pension plan when there occurs any reason prescribed by Presidential Decree, such as retirement of the pension holder, the employer shall pay contributions under paragraph (1) and interest on delayed payment under the latter part of paragraph (3) into the account of the pension holder under the defined contribution retirement pension plan: Provided, That in special circumstances, the payment date may be extended upon agreement between the parties concerned.

(6) A pension holder may ask the retirement pension trustee to transfer the related assets under management, in lieu of benefits to be paid at the time of his/her retirement, to the individual retirement pension plan account set up by the pension holder.

(7) If requested by a pension holder pursuant to paragraph (6), the retirement pension trustee shall transfer the related assets under management to the individual retirement pension plan account of the pension holder. In such cases, the retirement pension trustee shall be deemed to have paid the pension holder benefits accruing from the operation of the defined contribution retirement pension plan.

Article 21 (Methods for Managing Reserves and Provision of Information)

(1) A pension holder covered by a defined contribution retirement pension plan may choose a method for management of his/her reserves, and be able to change this method at least once every half-year.

(2) A retirement pension trustee shall suggest at least three methods for management of the pension holder's reserves, of different risk levels and return structures, at least once every half-year.

(3) A retirement pension trustee shall provide information needed for a pension holder to choose the method for management of his/her reserves, such as information on the probability for a return on investment or for sustaining loss for each method of management.

Article 22 (Early Withdrawal of Reserves)

A pension holder covered by a defined contribution retirement pension plan may withdraw reserves early for any reason prescribed by Presidential Decree, such as housing purchase.

Article 23 (Establishment of a Defined Contribution Retirement Pension Plan Involving Two or More Employers)

If a retirement pension trustee intends to propose the establishment of a defined contribution retirement pension plan involving two or more employers, it shall receive approval from the Minister of Employment and Labor in regards to the following matters:

1. Standard rules for the defined contribution retirement pension plan addressing the following matters :
 - A. Matters under each subparagraph of Article 19 (1);
 - B. Other matters prescribed by Presidential Decree.
2. Standard contract on operational management services and asset management services addressing matters prescribed by Presidential Decree.

CHAPTER V

Individual Retirement Pension Plan

Article 24 (Establishment, Operation, etc., of an Individual Retirement Pension Plan)

(1) A retirement pension trustee may operate an individual retirement pension plan.

(2) A person falling under any of the following subparagraphs may set up an individual retirement pension plan:

1. A person who has received lump-sum benefits under a retirement benefit scheme;
2. A person who is covered by a defined benefit retirement pension plan or defined contribution retirement pension plan and intends to additionally set up an individual retirement pension plan at his/her own expense;
3. A person prescribed by Presidential Decree, who needs to secure a stable income for their retirement years, such as a self-employed person;

(3) A person who has set up an individual retirement pension plan pursuant to paragraph (2) shall pay contributions into the individual retirement pension plan at his/her own expense: Provided, That he/she shall not pay contributions in excess of the limit prescribed by Presidential Decree.

(4) Article 21 shall apply mutatis mutandis with regard to the methods of managing reserves under an individual retirement pension plan and the provision of information on the operation of an individual retirement pension plan. In such cases, "defined contribution retirement pension plan" shall be read as "individual retirement pension plan".

(5) Matters concerning eligibility requirements for recipients of each type of benefit of an individual retirement pension plan and early withdrawal shall be prescribed by Presidential Decree.

Article 25 (Special Cases for Businesses Employing Fewer Than Ten Workers)

(1) For businesses ordinarily employing fewer than ten workers, if an employer has set up an individual retirement pension plan after obtaining the consent of, or at the request of, an individual worker notwithstanding Article 4 (1) and Article 5, he/she shall be deemed to have set up a retirement benefit scheme for the worker concerned.

(2) If an individual retirement pension plan is set up pursuant to paragraph (1), the following shall be complied with:

1. When the employer chooses a retirement pension trustee, he/she shall receive the consent of the individual worker: Provided, That the worker may choose a retirement pension trustee on his/her own if he/she makes such a request;
2. The employer shall pay in cash contributions amounting to one twelfth or more of the total annual wages of each pension holder into the individual retirement pension plan account of the pension holder;
3. The pension holder shall be allowed to pay additional contributions, apart from the contributions borne by the employer;
4. The employer shall regularly pay contributions under subparagraph 2 into the individual retirement pension plan of the pension holder at least once every year. In such cases, the latter part of Article 20 (3) and Article 20 (4) shall apply mutatis mutandis with regard to the payment of interest on contributions whose payment is delayed;
5. Other matters prescribed by Presidential Decree in order to protect the right of workers to receive benefits in a stable manner.

(3) If an employer fails to pay contributions under paragraph (2) 2 for a pension holder covered by an individual retirement pension plan when there occurs any reason prescribed by Presidential Decree, such as retirement of the pension holder, the employer shall pay the contributions and interest on delayed payment under the latter part of paragraph (2) 4 into the individual retirement pension plan of the pension holder within fourteen days from the date on which the reason occurs: Provided, That in special circumstances, the payment date may be extended upon agreement between the parties concerned.

CHAPTER VI

Retirement Pension Trustees and Their Services

Article 26 (Registration of Retirement Pension Trustee)

A person falling under any of the following subparagraphs who intends to be a retirement pension trustee shall register him/herself with the Minister of Employment and Labor after meeting the requirements prescribed by Presidential Decree, such as financial soundness and personnel and physical requirements:

1. An investment trading company, an investment brokerage company or a collective investment company under the Financial Investment Services and Capital Markets Act;
2. An insurance company under subparagraph 6 of Article 2 of the Insurance Business Act;
3. A bank under Article 2 (1) 2 of the Banking Act;
4. The National Credit Union Federation of Korea under subparagraph 2 of Article 2 of the Credit Cooperatives Act;
5. The Korean Federation of Community Credit Cooperatives under Article 2 (3) of the Community Credit Cooperatives Act;
6. The Korea Workers Compensation and Welfare Service under Article 10 of the Industrial Accident Compensation Insurance Act (Businesses eligible to receive retirement pension services provided by the Korea Workers Compensation and Welfare Service shall be limited to those ordinarily employing 30 workers or fewer.);
7. Any other person equivalent to those under subparagraphs 1 through 6 and prescribed by Presidential Decree.

Article 27 (Cancellation of Registration of Retirement Pension Trustee and Transfer Orders)

(1) If a retirement pension trustee falls under any of the following subparagraphs, the Minister of Employment and Labor may order correction or cancel the retirement pension trustee's registration as prescribed by Ordinance of the Ministry of Employment and Labor: Provided, That in cases falling under subparagraphs 1 and 2, the registration shall be cancelled:

1. Where the retirement pension trustee is dissolved;
2. Where the retirement pension trustee obtains registration under Article 26 in false or other fraudulent ways;
3. Where the retirement pension trustee fails to meet the requirements for registration under Article 26;
4. Where the retirement pension trustee fails to comply with an order issued by the Minister of Employment and

Labor or the Financial Services Commission pursuant to Article 36.

(2) A retirement pension trustee whose registration has been cancelled pursuant to paragraph (1) shall not register itself as a retirement pension trustee for three years from the date of cancellation.

(3) A retirement pension trustee who intends to discontinue its services relating to retirement pension plans shall apply for termination of registration to the Minister of Employment and Labor. In such cases, the retirement pension trustee whose registration has been terminated shall not register itself as a retirement pension trustee for two years from the date of termination.

(4) A retirement pension trustee whose registration has been cancelled pursuant to paragraph (1) or who has applied for termination of registration pursuant to paragraph (3) shall take pension holder protection measures prescribed by Presidential Decree, such as measures necessary for the transfer of an established retirement pension plan.

(5) If the Minister of Employment and Labor deems it necessary in order to protect the right of workers to receive benefits, etc., when registration is cancelled or terminated pursuant to paragraph (1) or (3), he/she may order the retirement pension trustee whose registration is cancelled or terminated to transfer all or some of its services to another retirement pension trustee. In such cases, the Minister of Employment and Labor shall receive the consent of the retirement pension trustee to whom all or some of such services are transferred.

Article 28 (Entering into Contracts for Operational Management Services)

(1) An employer or a pension holder who intends to set up a retirement pension plan shall enter into a contract with a retirement pension trustee on the implementation of the following services (hereinafter referred to as "operational management services"): Provided, That the services prescribed in subparagraph 2 shall be limited to cases where a defined benefit retirement pension plan is set up:

1. Providing an employer or a pension holder with the methods for management of reserves and information on each management method;
2. Designing a pension plan and maintaining pension accounting;
3. Recording the current state of reserve management, preserving records, and issuing notifications;

4. Informing a retirement pension trustee carrying out asset management services pursuant to Article 29 (1) of the management method chosen by the employer or pension holders;
5. Other services prescribed by Presidential Decree to properly carry out operational management services.

(2) A retirement pension trustee carrying out operational management services pursuant to paragraph (1) may have a person who meets the requirements prescribed by Presidential Decree, such as personnel and physical requirements, carry out some of the services prescribed by Presidential Decree.

Article 29 (Entering into Contracts for Asset Management Services)

(1) An employer or a pension holder who has set up a retirement pension plan shall enter into a contract with a retirement pension trustee on the provision of the following services (hereinafter referred to as "asset management services"):

1. Setting up and managing an account;
2. Receiving contributions;
3. Keeping and managing reserves;
4. Implementing instructions related to the management of reserves which are given by a retirement pension trustee carrying out operational management services;
5. Paying benefits;
6. Other services prescribed by Presidential Decree to properly carry out asset management services.

(2) If an employer or a pension holder intends to enter into a contract under paragraph (1), it shall be signed with the worker or pension holder as the insured or beneficiary in accordance with the method of making an insurance contract or a trust contract prescribed by Presidential Decree.

Article 30 (Provision of Operational Management Services)

(1) A retirement pension trustee shall fulfill its duty of due care as a good manager.

(2) If a retirement pension trustee suggests methods for management of reserves, it shall suggest management methods meeting the following requirements:

1. Information on management methods shall be easy to obtain and understand;
2. Switching between management methods shall be easy;
3. The methods of and procedures for evaluating management of reserves shall be transparent;

4. For defined contribution retirement pension plans and individual retirement pension plans, at least one management method prescribed by Presidential Decree, which guarantees the repayment of principal and interest shall be included in the management methods;
5. Management methods suggested shall be in line with the management methods and standards prescribed by Presidential Decree, such as investment diversification, to ensure stable management of the reserves in the mid and long term.

Article 31 (Entrustment of Solicitation Business)

(1) A retirement pension trustee may entrust a person satisfying all of the following requirements (hereinafter referred to as "retirement pension plan solicitor") with the business of soliciting people to set up or join a retirement pension plan (hereinafter referred to as "solicitation business"), which is prescribed by Presidential Decree:

1. The person shall not be registered with the Minister of Employment and Labor pursuant to paragraph (2);
2. The person shall have professional knowledge of retirement pension plans and meet the requirements prescribed by Presidential Decree;
3. If his/her registration was cancelled pursuant to paragraph (6), at least three years shall have elapsed after the date of cancellation.

(2) If a retirement pension trustee has entrusted the business of soliciting for a retirement pension plan with a person pursuant to paragraph (1), the person entrusted with such business shall register him/herself with the Minister of Employment and Labor. In such cases, the Minister of Employment and Labor may entrust the work of dealing with such registration to an institution determined by the Minister of Employment and Labor as prescribed by Presidential Decree.

(3) A person entrusted with the business of soliciting for a retirement pension plan shall not carry out the business of soliciting for a retirement pension plan unless he/she is registered pursuant to paragraph (2).

(4) A retirement pension trustee shall not entrust solicitation business to any person other than retirement pension plan solicitors registered pursuant to paragraph (2).

(5) The registration application, method and procedure under paragraph (2) and other matters necessary for registration shall be determined by the Minister of Employment and Labor.

(6) In any of the following cases, the Minister of Employment and Labor may cancel the registration of a retirement pension plan solicitor registered under paragraph (2) or suspend his/her solicitation business for not more than six months:

1. Where the solicitor fails to meet the requirements specified in paragraph (1);
2. Where the solicitor violates the matters specified in each subparagraph of paragraph (7), with which a person entrusted with solicitation business is required to comply.

(7) A person entrusted with solicitation business pursuant to paragraph (1) shall comply with the following matters :

1. He/she shall not entrust the business entrusted to him/her to other people;
2. Matters prescribed by Presidential Decree and necessary for the proper operation of a retirement pension plan, such as the ban on solicitation by means of providing false information.

(8) If a person entrusted with solicitation business pursuant to paragraph (1) fails to comply with the matters specified in each subparagraph of paragraph (7), the retirement pension trustee shall cancel the entrustment of solicitation business.

(9) A retirement pension trustee shall monitor in good faith a retirement pension plan solicitor to ensure that he/she complies with Acts and subordinate statutes and does not undermine sound trading operations when carrying out the business of soliciting a retirement pension plan, and to this end, shall establish standards for carrying out solicitation business.

(10) Article 756 of the Civil Act shall apply *mutatis mutandis* to cases where a retirement pension plan solicitor causes any damage to an employer or a pension holder while carrying out solicitation business.

CHAPTER VII

Duties and Supervision

Article 32 (Duties of Employers)

(1) An employer shall observe Acts and subordinate statutes and retirement pension rules, and fulfill in good faith the obligations imposed under this Act with regard to matters prescribed by Presidential Decree for the sake of pension

holders, etc.

(2) An employer who has set up a retirement pension plan (excluding individual retirement pension plans) shall provide education to the pension holders at least once every year about matters prescribed by Presidential Decree, such as the operating status of the retirement pension plan for the business concerned. In such cases, the employer may entrust such education to the retirement pension trustee.

(3) An employer who has set up a retirement pension plan shall not commit any of the following acts:

1. Entering into a contract to carry out operational management services and asset management services for the purpose of benefiting the employer him/herself or a third person;
2. Other acts prescribed by Presidential Decree, which hinder the proper operation of a retirement pension plan.

Article 33 (Duties of Retirement Pension Trustees)

(1) A retirement pension trustee shall observe this Act, and carry out its services in good faith for the sake of pension holders.

(2) A retirement pension trustee shall comply with the terms and conditions of the relevant contract under Article 28 (1) and Article 29 (1).

(3) A retirement pension trustee shall not commit any of the following acts without a justifiable reason:

1. Refusing to enter into a contract to carry out operational management services under Articles 28 (1);
2. Refusing to enter into a contract to carry out asset management services under Articles 29 (1);
3. Forcing a contract to be made with a particular retirement pension trustee;
4. Other acts prescribed by Presidential Decree, which are likely to infringe upon the interests of the relevant employer or pension holder.

(4) A retirement pension trustee carrying out operational management services shall not commit any of the following acts:

1. Promising to bear all or some of the losses of a pension holder or an employer at the time of signing the contract;
2. Offering or promising to offer special benefits prescribed by Presidential Decree, such as providing excessive additional services that have an economic value for a

- pension holder or an employer or paying expenses that must be borne by a pension holder or an employer;
3. Using personal data, such as the name and address of a pension holder, beyond the extent necessary for performing duties related to the management of a retirement pension plan;
 4. Suggesting a particular management method to a pension holder or an employer for the purpose of benefiting the retirement pension trustee itself or a third person.
- (5) A retirement pension trustee operating an individual retirement pension plan pursuant to Article 24 (1) shall provide education to the pension holders at least once every year about matters prescribed by Presidential Decree, such as the operating status of the retirement pension plan for the business concerned.
- (6) A retirement pension trustee shall submit the outcomes of the handling of retirement pension plans to the employer (excluding the outcomes of the handling of individual retirement pension plans), the Ministry of Employment and Labor and the Governor of the Financial Supervisory Service as prescribed by Ordinance of the Ministry of Employment and Labor.
- (7) If a retirement pension trustee intends to establish or amend the terms and conditions or standard forms of a contract (hereinafter referred to as "the terms and conditions of a contract, etc.") relating to the signing of a contract under Article 28 (1) and Article 29 (1), it shall report this to the Governor of the Financial Supervisory Service in advance: Provided, That in cases where there is no adverse effect on the rights and interests or duties of the workers or employer, as determined by the Financial Services Commission, it may report to the Governor of the Financial Supervisory Service within ten days after the establishment or amendment of the terms and conditions of the contract, etc.
- (8) A retirement pension trustee shall make public the rate of return on reserve funds, commissions, etc., at the end of every year, as determined by the Financial Services Commission.

Article 34 (Duties, etc. of Government)

- (1) The government shall devise support measures to promote retirement pension plans.
- (2) The government may take necessary measures, such as supporting research projects, jointly with workers' or employers' organizations, and agencies and organizations involved in

retirement pension affairs, to ensure the sound establishment and development of retirement pension plans.

(3) The government shall make efforts to devise measures to protect the right of workers to receive benefits, such as coming up with a way to guarantee payment of benefits under retirement pension plans.

Article 35 (Supervision over Employers)

(1) If an employer commits an act in violation of this Act or retirement pension rules in relation to the establishment, operation, etc., of a retirement pension plan, the Minister of Employment and Labor may set a period and order the employer to correct the violation within that period.

(2) If an employer fails to comply with a correction order within the period under paragraph (1), the Minister of Employment and Labor may order operation of the retirement pension plan be suspended.

Article 36 (Supervision over Retirement Pension Trustees)

(1) If a retirement pension trustee commits an act in violation of this Act, the Minister of Employment and Labor may set a period and order the retirement pension trustee to correct the violation within that period.

(2) If a retirement pension trustee fails to comply with a correction order under paragraph (1), the Minister of Employment and Labor may order services carried out under this Act to be transferred to another retirement pension trustee.

(3) In order to ensure stable operation of retirement pension plans and protect the right of workers to receive benefits, the Financial Services Commission may supervise retirement pension trustees with regard to services prescribed by Presidential Decree, and if a retirement pension trustee violates Article 33, take any of the following measures:

1. Issue a warning against the retirement pension trustee, demanding the issuance of a warning against its executive or a warning, reprimand, salary reduction, suspension or removal from office against its employee;
2. Issue an order to correct the relevant violation;
3. Recommend the dismissal of an executive or demand the suspension of an executive from his/her duties;
4. Order the partial suspension of business for not more than six months.

(4) The Governor of the Financial Supervisory Service may examine the services, property, etc., of a retirement pension

trustee, and if the terms and conditions of a contract, etc., reported by a retirement pension trustee pursuant to Article 33 (7) violate this Act, issue an order to change or complement them.

Article 37 (Request, etc., for Provision of Financial Transaction Information)

(1) If the Minister of Employment and Labor deems it necessary to supervise the operation of retirement pension plans, such as to determine whether an employer has secured the ability to pay benefits under Article 16, he/she may request the relevant retirement pension trustee to provide information or data on financial transactions specified in each of the following subparagraphs (hereinafter referred to as "financial transaction information") with regard to the business with which it has entered into a contract to provide asset management services and operational management services, notwithstanding Article 4 of the Act on Real Name Financial Transactions and Guarantee of Secrecy and Article 33 of the Act on Use and Protection of Credit Information:

1. The current state of pension holders;
2. The current state of payment of benefits;
3. The current state of payment of contributions;
4. The current state of reserve management.

(2) When the Minister of Employment and Labor requests financial transaction information pursuant to paragraph (1), the request shall be made in writing specifying the following matters:

1. Trade period subject to the request;
2. Legal grounds for the request;
3. Purpose for the use of information;
4. Details of the financial transaction information requested

(3) A request for financial transaction information under paragraph (1) shall be kept to the minimum level necessary for supervising the operational soundness of a retirement pension plan.

(4) If a retirement pension trustee provides financial transaction information to the Minister of Employment and Labor pursuant to paragraph (2), the retirement pension trustee shall notify the relevant employer or pension holders in writing of the main content of the provided financial transaction information, the purpose for the use of that information, the person provided with that information, the date of provision,

etc., within ten days from the date of provision of financial transaction information. In such cases, Article 4-2 (4) of the Act on Real Name Financial Transactions and Guarantee of Secrecy shall apply mutatis mutandis with regard to the costs of the notification.

(5) If the Minister of Employment and Labor requests financial transaction information from a pursuant to paragraph (1), the retirement pension trustee shall record this fact and preserve such records for five years from the date of request for financial transaction information.

(6) No person who is provided with or otherwise comes to know financial transaction information pursuant to paragraph (1) shall provide such financial transaction information to other persons or use it in any way beyond the original intended purpose.

CHAPTER VIII

Supplementary Provisions

Article 38 (Abolition and Suspension of Retirement Pension Plans)

(1) In the case of abolition of a retirement pension plan or suspension of its operation, the retirement pay system under Article 8 (1) shall be applied after the abolition or during the period of the suspension.

(2) In the case of abolition of a retirement pension plan, the employer shall, without delay, take measures prescribed by Presidential Decree, such as paying unpaid contributions, which are necessary for paying benefits out of reserves.

(3) If the operation of a retirement pension plan is suspended due to the reasons, etc., under Article 35 (2), the employer and retirement pension trustee shall maintain the basic services prescribed by Presidential Decree, such as those necessary for the management of reserves.

(4) If benefits are paid to a pension holder as a result of abolition of a retirement pension plan, the employer and retirement pension trustee shall make that payment by transferring benefits to the individual retirement pension plan account designated by the pension holder: Provided, That if the pension holder fails to designate an individual retirement

pension plan account, Article 17 (5) shall apply mutatis mutandis.

(5) If a pension holder has been paid benefits pursuant to paragraph (4), he/she shall be deemed to have been paid benefits earlier than his/her retirement pursuant to Article 8 (2). In such cases, necessary matters concerning calculation of the period subject to the early payment, etc., shall be prescribed by Presidential Decree.

Article 39 (Cooperation)

If the Minister of Employment and Labor deems it necessary for implementation of this Act, he/she may request related agencies, such as the Financial Services Commission, to submit relevant materials. In such cases, the agencies requested to submit materials shall not refuse this request unless they have justifiable reason.

Article 40 (Reporting and Examination)

(1) The Minister of Employment and Labor may ask an employer and a retirement pension trustee to report the implementation status of the retirement pension plan, etc., or submit related documents or may ask for the presence of a related person, within the extent necessary for the implementation of this Act.

(2) If the Minister of Employment and Labor deems it necessary for implementation of this Act, he/she may have his/her representative enter a workplace implementing a retirement pension plan and the workplace of the relevant retirement pension trustee and ask questions of related persons, such as the employer or retirement pension trustee, or examine books or documents.

(3) A representative of the Minister of Employment and Labor who intends to enter a workplace or the workplace of the relevant retirement pension trustee and ask questions of related persons or examine books or documents pursuant to paragraph (2) shall carry a certificate indicating his/her authority and produce it to the related persons.

Article 41 (Hearings)

The Minister of Employment and Labor shall hold a hearing, if he/she intends to cancel a registration pursuant to Article 27 (1) or issue a transfer order pursuant to Article 36 (2).

Article 42 (Delegation and Entrustment of Authority)

(1) The authority of the Minister of Employment and Labor under this Act may be partly entrusted to the Financial Services Commission or the Governor of the Financial Supervisory Service or partly delegated to the heads of local employment and labor offices as prescribed by Presidential Decree.

(2) The authority of the Financial Services Commission under this Act may be partly entrusted to the Governor of the Financial Supervisory Service as prescribed by Presidential Decree.

CHAPTER IX

Penal Provisions

Article 43 (Penal Provisions)

A person who violates Article 37 (6) shall be punished by imprisonment of up to five years or a fine not exceeding 30 million won.

Article 44 (Penal Provisions)

A person falling under any of the following subparagraphs shall be punished by imprisonment of up to three years or a fine not exceeding 20 million won: Provided, That in the case of paragraphs 1 and 2, the person shall not be prosecuted against the explicit will of the victim:

1. A person who fails to pay retirement pay in violation of Article 9;
2. A person who fails to pay benefits when a worker retires or fails to pay contributions or interest on delayed payment in violation of Article 17 (2) and (3), Article 20 (5) or Article 25 (3);
3. A retirement pension trustee who fails to take pension holder protection measures in violation of Article 27 (4);
4. A retirement pension trustee who violates Article 33 (3) and (4).

Article 45 (Penal Provisions)

A person falling under any of the following subparagraphs

shall be punished by imprisonment of up to two years or a fine not exceeding 10 million won:

1. A person who sets up different retirement benefit schemes within the same business in violation of Article 4 (2);
2. A person who carries out the business of soliciting a retirement pension plan without being registered with the Minister of Employment and Labor, in violation of Article 31 (3);
3. A retirement pension trustee who entrusts solicitation business to a person who is not a retirement pension plan solicitor, in violation of Article 31 (4);
4. An employer who violates the duties under Article 32 (3) 1.

Article 46 (Penal Provisions)

A person falling under any of the following subparagraphs shall be punished by a fine not exceeding five million won:

1. A person who fails to obtain the consent of, or hear opinions from, a workers' representative or individual workers in violation of Article 4 (3) and (4) or Article 25 (1) and Article 25 (2) 1;
2. A person who violates Article 31 (7).

Article 47 (Joint Penal Provisions)

If the representative of a corporation or an agent, a servant or any other employee of a corporation or an individual commits any offence prescribed in Articles 44 through 46 in connection with the business of the corporation or individual, not only shall the offender be punished, but the corporation or individual employing the offender at the time of the violation shall also be punished by the fine prescribed in the relevant Articles: Provided, That this shall not apply unless the corporation or individual neglects to give considerable attention and supervision to the business concerned in order to prevent such offence.

Article 48 (Fine for Negligence)

(1) A person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 10 million won:

1. An employer who fails to provide education at least once every year pursuant to Article 32 (2);

2. A retirement pension trustee who fails to provide education at least once every year pursuant to Article 33 (5);
- (2) A person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding five million won:
 1. An employer who fails to report defined benefit retirement pension rules under Article 13 or defined contribution retirement pension rules under Article 19;
 2. An employer who violates the duties under Article 32 (3) 2;
 3. A retirement pension trustee who violates the duties under Article 33 (2) and (6).
- (3) Fines for negligence under paragraphs (1) and (2) shall be imposed and collected by the Minister of Employment and Labor as prescribed by Presidential Decree.

Addenda <Act No. 7379, Jan. 27, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on December 1, 2005: Provided, That for businesses ordinarily employing four or fewer workers, this Act shall enter into force on a date prescribed by Presidential Decree, which falls between 2008 and 2010.

Article 2 (Effective Term of Retirement Insurance, etc.)

(1) If an employer subscribes to retirement insurance or a lump-sum retirement trust (hereinafter referred to as "retirement insurance, etc.") prescribed by Presidential Decree with its workers as the insured or beneficiaries so that its workers can receive lump-sum benefits or annuities upon retirement, he/she shall be deemed to have set up a retirement pay system under Article 8 (1): Provided, That the amount of lump-sum benefits paid under a retirement insurance, etc., shall not be less than the amount of retirement pay prescribed in Article 8 (1).

(2) Paragraph (1) shall have its effect limited to employers who have subscribed to retirement insurance, etc., at the time this Act enters into force, and shall be effective until December 31, 2010.

Article 3 (Special Cases for Benefits and Contributions of Businesses Ordinarily Employing Four or Fewer

Workers)

Notwithstanding Article 8 (1), subparagraph 4 of Article 12 and subparagraph 1 A of Article 13, the amount of retirement pay, the amount of benefits under a defined benefit retirement pension plan, and the level of contributions paid by an employer to a defined contribution retirement pension plan, which are applicable to businesses ordinarily employing four or fewer workers, may be raised in phases by an amount of not less than 50/100 but not more than 100/100 of the level prescribed in the same provisions, as prescribed by Presidential Decree.

Article 4 (Transitional Measures concerning Preferential Payment of Retirement Pay)

(1) Notwithstanding Article 11 (2), for workers who retired before December 24, 1997, retirement pay for their consecutive service provided after March 29, 1989 shall be subject to preferential payment.

(2) Notwithstanding Article 11 (2), for workers who were employed before December 24, 1997 and then retire after December 24, 1997, the sum of retirement pay for their consecutive service from March 29, 1989 to December 23, 1997 and retirement pay for the final three years of their consecutive service after December 24, 1997 shall be subject to preferential payment.

(3) The amount of retirement pay subject to preferential payment under paragraphs (1) and (2) shall be 30 days of average wages for each year of consecutive service.

(4) The amount of retirement pay subject to preferential payment under paragraphs (1) and (2) shall not exceed 250 days of average wages.

Article 5 (Transitional Measures concerning Retirement Pay System)

Any retirement pay system set up under Article 34 (1) of the previous Labor Standards Act and retirement pay settled and paid in advance at the time this Act enters into force shall be deemed to have been set up or paid under this Act.

Article 6 (Revision of Other Acts)

(1) Parts of the Labor Standards Act shall be revised as follows:

Article 34 shall be as follows:

Article 34 (Retirement Benefit System)

With regard to the system of retirement benefits paid by

employers to retiring workers, conditions prescribed by the Employee Retirement Benefit Security Act shall apply.

"Wages and retirement pay" in Article 37 (1) shall be changed to "wages".

Article 37 (2) 2 shall be deleted.

"retirement pay and bonuses" in subparagraph 5 of Article 96 shall be changed to "retirement pay under Article 8 of the Employee Retirement Benefit Security Act and bonuses".

(2) Parts of the Wage Claim Guarantee Act shall be revised as follows: *<Amended by Act No. 7636, Jul. 29, 2005>*

Article 6 (2) 1 shall be as follows:

1. Wages under Article 37 (2) 1 of the Labor Standards Act and retirement pay under Article 11 (2) of the Employee Retirement Benefit Security Act.

Article 7 (2) shall be as follows:

(2) The right to preferential payment of wage claims under Article 37 (2) of the Labor Standards Act and the right to preferential payment of retirement pay under Article 11 (2) of the Employee Retirement Benefit Security Act shall continue to exist with regard to the right transferred under paragraph (1).

Subparagraph 2 of Article 9 shall be as follows:

2. Employers who have taken out retirement insurance, etc., pursuant to Article 2 (1) of the Addenda to the Employee Retirement Benefit Security Act and employers who have set up a retirement pension plan pursuant to Chapter III of the same Act (including employers of businesses subject to the provision on special cases for businesses pursuant to Article 26 of the same Act).

(3) Parts of the Insurance Business Act shall be revised as follows:

Article 108 (1) 2 shall be as follows:

2. Retirement insurance contracts under Article 2 (1) of the Addenda to the Employee Retirement Benefit Security Act and insurance contracts under 16 (2).

Article 7 (Relationship with Other Acts and Subordinate Statutes)

References to a retirement pay system under Article 34 of the previous Labor Standards Act or the provisions thereof in other Acts or subordinate statutes at the time this Act enters into force shall be deemed references to this Act and its corresponding provisions, if any, in lieu of the previous provisions.

Addendum <Act No. 9039, Mar. 28, 2008>

This Act shall enter into force on the date of its promulgation.

Addenda <Act No. 10303, May. 17, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after its promulgation. <Proviso omitted>

Articles 2 through 8 Omitted.

Article 9 (Revision of Other Acts)

(1) through (11) Omitted.

(12) Parts of the Employee Retirement Benefit Security Act shall be revised as follows:

"Financial institution" in subparagraph 3 of Article 14 shall be changed to "bank".

(13) through (86) Omitted.

Articles 10 Omitted.

Addenda <Act No. 10339, Jun. 4, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation. <Proviso omitted>

Articles 2 and 3 Omitted.

Article 9 (Revision of Other Acts)

(1) through (30) Omitted.

(31) Parts of the Employee Retirement Benefit Security Act shall be revised as follows:

"Ministry of Labor" in Article 6 (1) shall be changed to "Ministry of Employment and Labor".

"Vice Minister of Labor" in Article 6 (3) shall be changed to "Vice Minister of Employment and Labor".

"Ordinance of the Ministry of Labor" in the proviso to Article 7, subparagraph 5 A and B of Article 12, the latter part of subparagraph 8 of Article 12 and Article 20 (5) shall be changed to "Ordinance of the Ministry of Employment and Labor".

"Minister of Labor" in parts other than each subparagraph of Article 12, parts other than each subparagraph of Article 13, parts other than each subparagraph of Article 14, parts other than each subparagraph of Article 18 (1), Article 18 (1) 4, the former and latter parts of Article 18 (2), Article 20 (5), Article 22 (1) and (2), Article 23 (1) through (3), Article 24, the former part of Article 28, Article 29 (1), the former part of Article 29 (2), Article 30 (1) and Article 35 (3) through (5) shall be changed to "Minister of Employment and Labor".

"Local labor offices" in Article 30 (1) shall be changed to "local employment and labor offices"
(32) through (82) Omitted.

Articles 5 Omitted.

Addenda <Act No. 10366, Jun. 10, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force two years after its promulgation.

Article 2 Omitted.

Article 3 (Revision of Other Acts)

(1) through (4) Omitted.

(5) Parts of the Employee Retirement Benefit Security Act shall be revised as follows:

"Pledges or mortgages" in Article 11 (1) and (2) shall be changed to "pledges, mortgages or liens under the Act on Use of Movables, Receivables, etc., as Security".

(6) through (10) Omitted.

Articles 4 Omitted.

Addenda <Act No. 10967, Jul. 25, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force one year after its promulgation.

Article 2 (Effective Term of Retirement Insurance, etc.)

(1) If an employer subscribes to retirement insurance or a lump-sum retirement trust (hereinafter referred to as "retirement

insurance, etc.") prescribed by Presidential Decree with his/her workers as the insured or beneficiaries so that the workers can receive lump-sum benefits or annuities upon retirement before December 1, 2005 when the Employee Retirement Benefit Security Act as amended by Act No. 7379 enters into force, he/she shall be deemed to have set up a retirement pay system under Article 8 (1) of the Employee Retirement Benefit Security Act as amended by Act No. 7379: Provided, That the amount of lump-sum benefits under retirement insurance, etc., shall not be less than the amount of retirement pay under the same paragraph.

(2) A retirement pay system under paragraph (1) shall remain effective until December 31, 2010.

Article 3 (Applicability concerning Conditions for Payment of Retirement Pay before Retirement)

The amended provision of Article 8 (2) shall apply to cases in which a worker requests his/her employer to make an early payment after this Act enters into force.

Article 4 (Applicability concerning Benefit Payment Methods)

The amended provisions of Article 17 (4) and (5), Article 19 (2) (limited to parts to which Article 17 (4) and (5) shall apply mutatis mutandis) and Article 38 (4) shall apply to cases in which a reason for the payment of benefits occurs after this Act enters into force.

Article 5 (Applicability concerning Payment of Contributions, etc., under Defined Contribution Retirement Pension Plans and Individual Retirement Pension Plans)

The amended provisions of Article 20 (3) and (4), Article 25 (2) 4 and Article 25 (3) concerning interest on delayed payment shall apply to cases in which interest on delayed payment is paid after this Act enters into force.

Article 6 (Applicability concerning Participation in Individual Retirement Pension Plans by Self-Employed Persons, etc.)

Article 24 (2) 3 shall apply five years after this Act enters into force.

Article 7 (Applicability concerning Cancellation and Termination of Registration of Retirement Pension Trustees)

The amended provisions of Article 27 (2) and (3) shall apply to cases in which a retirement pension trustee has his/her registration cancelled or applies for the termination of his/her registration after this Act enters into force.

Article 8 (Special Cases concerning Enforcement Date, Benefits and Contributions for Businesses Ordinarily Employing Four or Fewer Workers)

(1) In regards to businesses ordinarily employing four or fewer workers, retirement benefit schemes shall be deemed to have taken effect on December 1, 2010 in accordance with the proviso to Article 1 of the Addenda to the Employee Retirement Benefit Security Act as amended by Act No. 7379.

(2) Notwithstanding the amended provisions of Article 8 (1), Article 15, Article 20 (1) and Article 25 (2) 2, the amount of retirement pay, the amount of benefits under a defined benefit retirement pension plan, and the level of contributions to be paid by an employer into a defined contribution retirement pension plan or an individual retirement pension plan under the amended provisions of Article 25, which are applicable to businesses ordinarily employing four or fewer workers, shall be determined as follows:

1. The amount of retirement pay, the amount of benefits under a defined benefit retirement pension plan, and the level of contributions to be paid by an employer into a defined contribution retirement pension plan or an individual retirement pension plan under the amended provisions of Article 25 from December 1, 2010 to December 31, 2012: 50/100 or more of the level prescribed in the amended provisions of Article 8 (1), Article 15, Article 20 (1) and Article 25 (2) 2;
2. The amount of retirement pay, the amount of benefits under a defined benefit retirement pension plan, and the level of contributions to be paid by an employer into a defined contribution retirement pension plan or an individual retirement pension plan under the amended provisions of Article 25 after January 1, 2013: the level prescribed in the amended provisions of Article 8 (1), Article 15, Article 20

(1) and Article 25 (2) 2.

(3) The parties to the employment relationship shall not lower the existing working conditions on grounds of paragraphs 1 and 2.

Article 9 (Transitional Measures concerning Preferential Payment of retirement pay)

(1)) Notwithstanding Article 12 (2), for workers who retired before December 24, 1997, retirement pay for their consecutive service provided after March 29, 1989 shall be subject to preferential payment.

(2) Notwithstanding Article 12 (2), for workers who were employed before December 24, 1997 and then retire after December 24, 1997, the sum of retirement pay for their consecutive service from March 29, 1989 to December 23, 1997 and retirement pay for the final three years of their consecutive service after December 24, 1997 shall be subject to preferential payment.

(3) retirement pay subject to preferential payment under paragraphs (1) and (2) shall be an amount equal to 30 days of average wages for each year of consecutive service.

(4) retirement pay subject to preferential payment under paragraphs (1) and (2) shall not exceed an amount equal to 250 days of average wages.

Article 10 (Transitional Measures concerning Retirement Pay System)

Any retirement pay system set up under Article 34 (1) of the previous Labor Standards Act and retirement pay paid in advance as of December 1, 2005 when the Employee Retirement Benefit Security Act as amended by Act No. 7379 enters into force shall be deemed to have been set up or paid under the Employee Retirement Benefit Security Act as amended by Act No. 7379.

Article 11 (Transitional Measures concerning Individual Retirement Accounts)

Any individual retirement account set up under the previous provisions of Articles 25 and 26 at the time when this Act enters into force shall be deemed an individual retirement pension plan set up under the amended provisions of Articles 24 and 25.

Article 12 (Revision of Other Acts)

- (1) Parts of the Wage Claim Guarantee Act shall be revised as follows:

"retirement pay for the final three years under Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 7 (2) 1 shall be changed to "retirement benefits, etc., for the final three years under Article 12 (2) of the Employee Retirement Benefit Security Act".

"Right to preferential payment of retirement pay under Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 8 (2) shall be changed to "right to preferential payment of retirement benefits, etc., under 12 (2) of the Employee Retirement Benefit Security Act".

"Employers (including employers of businesses subject to the provision on special cases for businesses pursuant to Article 26 of the same Act) who have established a retirement pension plan pursuant to Chapter III of the Employee Retirement Benefit Security Act" in subparagraph 3 of Article 10 shall be changed to "employers who have established a defined benefit retirement pension plan under Chapter III of the Employee Retirement Benefit Security Act, a defined contribution retirement pension plan under Article 4 of the same Act, or an individual retirement pension plan under Article 25 of the same Act".

Article 13 (Relationship with Other Acts and Subordinate Statutes)

References to the previous provisions of the Employee Retirement Benefit Security Act in other Acts or subordinate statutes at the time this Act enters into force shall be deemed references to the corresponding provisions of this Act, if any, in lieu of the previous provisions.